

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

In re T.S., a Person Coming Under
the Juvenile Court Law.

B271841

(Los Angeles County
Super. Ct. No. CK68192)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

JAMAL S.,

Defendant and Appellant.

APPEAL from an order of the Superior Court of Los Angeles County, Terry Troung, Judge. Dismissed.

Konrad S. Lee, under appointment by the Court of Appeal, for Defendant and Appellant Jamal S.

Mary C. Wickham, County Counsel, R. Keith Davis, Assistant County Counsel, and Kimberly Roura, Deputy County Counsel, for Plaintiff and Respondent.

Jamal S. (Father) appeals from the juvenile court's jurisdictional findings and disposition order declaring his daughter, T.S., a dependent of the court pursuant to Welfare and Institutions Code¹ section 300, subdivisions (b) and (j), removing the child from the custody of her mother, C.Y. (Mother), and placing the child with Father. On appeal, Father does not dispute that jurisdiction over T.S. was proper based on a finding that Mother's alcohol abuse placed the child at a substantial risk of harm. Rather, Father argues that the juvenile court erred in finding that T.S. was also at a substantial risk of harm based on Father's failure to protect the child from Mother's alcohol abuse. Because we cannot grant Father any effective relief, we dismiss the appeal.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

I. Section 300 Petition

Father and Mother are the parents of T.S., a girl born in June 2015. Mother also has an older daughter, Ty.S., from a prior relationship. The current matter came to the attention of the Department of Children and Family Services (DCFS) in February 2016, based on a referral from Father alleging that Mother had a chronic alcohol problem that was interfering with her ability to care for her children. At the time, T.S. was eight months old and Ty.S. was 17 years old. Father reported that T.S.'s basic needs, such as diaper changes and regular feedings,

¹ All further statutory references are to the Welfare and Institutions Code.

were not being met, and that Ty.S. was missing school to care for T.S. while Mother was under the influence of alcohol.

On February 18, 2016, a social worker and public health nurse visited the family's home. Mother answered the door and appeared to be under the influence of alcohol. Ty.S. was also present in the home and was caring for T.S. Mother told the social worker that she drank alcohol "every other day." When asked about the amount of alcohol she consumed, Mother stated, "I go big." She also admitted that she was under the influence of alcohol at that time. The social worker observed that Mother had difficulty understanding the questions and staying focused on the subject being discussed. The social worker also observed that the bedroom shared by Mother, Father, and T.S. was disheveled with a strong odor of stale alcohol and urine.

Ty.S. informed the social worker that the DCFS had been involved with the family in the past due to Mother's habitual drinking. Ty.S. also stated that Mother consumed alcohol about four times per week, but did not do so in front of the children. Ty.S. reported that she primarily resided with her father, but she had been staying in Mother's home for about a week and taking care of T.S. after school. Ty.S. denied missing any school to care for T.S. and claimed she was home that day because she was not feeling well. Ty.S. believed that Mother was under the influence of alcohol from drinking the previous night and indicated that she could always tell when Mother was intoxicated.

When Father arrived home from work, he advised the social worker that he was concerned about Mother because she consumed alcohol "every day, all day and all night." Mother often became intoxicated to the point of stumbling and falling, and Father worried that she would fall onto T.S. while the child was

sleeping in their bed. Mother also habitually urinated in the bed while under the influence of alcohol. According to Father, T.S.'s paternal aunt had been providing childcare for T.S. while Father was at work so that Mother did not have unsupervised contact with the child. Six weeks ago, however, Mother became upset with this arrangement because she wanted to care for T.S. herself. Father tried to reason with Mother and encouraged her to enter an alcohol rehabilitation program. Mother refused to seek treatment and insisted that T.S. remain with her. Father explained that for the first four weeks, Mother provided adequate care for T.S. even though she was under the influence of alcohol. In the last two weeks, however, Mother had been unable to meet the child's needs. At that point, Father consulted with a social worker at Shields for Families, who advised him to call the DCFS. In addition to contacting the DCFS, Father made a new childcare plan for T.S., which would include time with the paternal aunt and time in a daycare center.

During the visit, the social worker observed that Mother went to her bedroom several times and then returned smelling more strongly of alcohol. When the social worker reported her observation to Father, he noted that Mother did not become violent or aggressive when she was drunk and that he was not concerned Mother would harm anyone in the home. At the end of the visit, the family agreed to a safety plan in which Father would monitor all contact between Mother and the children and make alternative arrangements for childcare, and Mother would not have any unsupervised contact with the children or provide them with care while under the influence of alcohol.

On February 29, 2016, Father reported to the social worker that he and T.S. were currently staying in the paternal great-

grandmother's home. Father explained that Mother had spent "all weekend" intoxicated, and that he had left the family's home with T.S. over the weekend before the safety plan expired. Father also stated that Mother had not had any unsupervised contact with T.S. or provided care for the child while under the influence of alcohol. Father noted that he and T.S. could remain with the paternal great-grandmother indefinitely, but he wanted to return to the family's home if Mother agreed to enter an inpatient treatment program.

On March 4, 2016, the DCFS filed a dependency petition on behalf of T.S. and Ty.S. pursuant to section 300, subdivisions (b) and (j). The petition alleged that Mother had a history of alcohol abuse and was a current abuser of alcohol, which rendered her incapable of providing the children with regular supervision and care. The petition further alleged that Father knew of Mother's alcohol abuse and failed to protect his child, T.S., from the risk of harm posed by Mother. At a March 4, 2016 detention hearing, the juvenile court found that there was prima facie evidence that T.S. was a person described by section 300, and ordered that the child be detained from Mother and released to Father pending an adjudication hearing.

II. Jurisdiction/Disposition Report

For its March 24, 2016 jurisdiction/disposition report, the DCFS conducted interviews with the family about allegations in the petition. In her interview, Mother denied that she abused alcohol. She also denied that she had ever been under the influence of alcohol while caring for T.S. When asked about the prior dependency cases that had been filed on behalf of her older child, Ty.S., Mother claimed that Ty.S.'s father was the cause

of the prior cases. Mother also was asked about her criminal history, which included seven prior convictions for driving under the influence of alcohol and one prior conviction for disorderly conduct involving alcohol. Mother acknowledged that she “used to party a lot,” but noted that she now monitored her drinking because she had to submit to alcohol testing twice a month under the terms of her probation. Mother stated that she currently was attending weekly meetings in a 12-step program, but she did not believe she had a problem with alcohol abuse.

In his interview, Father indicated that he was aware of Mother’s history of alcohol abuse. He also confirmed that Mother currently abused alcohol. Father reported that, on the day he made the referral to the DCFS, he left T.S. with Mother because he knew Ty.S. would also be home and would help care for T.S. Father stated that his referral was prompted by Mother trying to drive with T.S. in the car. Father also noted that Mother would attempt to feed T.S. and change her diaper while drunk, and that Ty.S. would miss school to care for T.S. due to Mother’s condition. Although Father had taken Mother to various rehabilitation programs in the past, none had been successful. Father stated that he now believed Mother was incapable of caring for T.S., and that Mother needed to be in an inpatient treatment program. Father also asserted that T.S. was safe in his care and that he was fully committed to the child’s welfare.

In its report, the DCFS recommended that T.S. be declared a dependent of the court and remain placed with Father. The report noted that Father had agreed to protect T.S. from Mother’s endangering conduct and to cooperate with both the agency and the court to ensure the child’s safety. The DCFS also requested

that the court order family reunification services for Mother and family maintenance services for Father.

III. Jurisdiction and Disposition Hearing

On March 24, 2016, the juvenile court held a jurisdiction and disposition hearing. Father testified at the hearing that he did not currently allow Mother to care for T.S. without his supervision. However, he would allow Mother to do so in the future “if she is sober.” Father believed that he could tell whether Mother was sober based on his prior experience with her. According to Father, when Mother is not sober, her speech is slurred, she has mood swings, and she is very melancholy and sarcastic. Father testified that Mother began abusing alcohol again about six weeks after T.S.’s birth, and since that time, Mother had cared for T.S. unsupervised. Father also admitted that he was aware that Mother had a substance abuse problem at times when T.S. was alone in Mother’s care.

Father further testified that, whenever he felt it was inappropriate to leave T.S. with Mother, he arranged for T.S. to be in childcare. Father explained: “[Mother] is a binge drinker. So she would go two weeks just drinking, no attention to anything but her alcohol. And during those periods, I would have [T.S.] in childcare. She would clean up for a week or two, or maybe even clean up for a month, and she would be okay with the child. I felt comfortable. But when she would get into these degradative states for weeks at a time, I would take my child and have her [in] childcare when I wasn’t home.”

Following Father’s testimony and the argument of counsel, the juvenile court sustained the section 300 petition filed on behalf of T.S. The court found that Mother had an eight-year

history of alcohol abuse and was a current user of alcohol, which rendered her incapable of providing T.S. with regular care and supervision. The court also found that Father was aware of Mother's alcohol abuse and failed to protect T.S., who required constant care and supervision at her age. The court further found that Mother's continued alcohol use and Father's failure to protect T.S. endangered the child's health and safety and placed her at a substantial risk of harm.

Turning to disposition, the juvenile court declared T.S. a dependent of the court pursuant to section 300, subdivisions (b) and (j), and ordered that T.S. be removed from Mother's custody and placed with Father under the supervision of the DCFS. Mother was granted monitored visitation with T.S. and ordered to participate in family reunification services, including an inpatient alcohol treatment program, random on-demand alcohol testing, parenting education, and individual counseling. Father was granted family maintenance services, including participation in an Al-Anon support group. Following the jurisdiction and disposition hearing, Father filed a timely notice of appeal.

DISCUSSION

On appeal, Father challenges the sufficiency of evidence supporting the juvenile court's jurisdictional finding that Father failed to protect T.S. from Mother's alcohol abuse. Father does not contest the jurisdictional finding that Mother's alcohol abuse rendered her incapable of providing T.S. with regular care and supervision and therefore placed the child at a substantial risk of harm. Rather, Father contends there was insufficient evidence to support a finding that Father posed a current risk of harm to T.S. at the time of the jurisdiction and disposition hearing.

As Father acknowledges, “[a] jurisdictional finding against one parent is good against both.” (*In re Briana V.* (2015) 236 Cal.App.4th 297, 308; see also *In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 [““the minor is a dependent if the actions of either parent bring [her] within one of the statutory definitions of a dependent””].) Thus, “[w]hen a dependency petition alleges multiple grounds for its assertion that a minor comes within the dependency court’s jurisdiction, a reviewing court can affirm the juvenile court’s finding of jurisdiction over the minor if any one of the statutory bases for jurisdiction that are enumerated in the petition is supported by substantial evidence. In such a case, the reviewing court need not consider whether any or all of the other alleged statutory grounds for jurisdiction are supported by the evidence. [Citations.]” (*In re Alexis E.* (2009) 171 Cal.App.4th 438, 451.) However, a reviewing court may address the merits of a jurisdictional finding against one parent where “the finding (1) serves as the basis for dispositional orders that are also challenged on appeal [citation]; (2) could be prejudicial to the appellant or could potentially impact the current or future dependency proceedings [citations]; or (3) ‘could have other consequences for [the appellant], beyond jurisdiction’ [citation].” (*In re Drake M.* (2012) 211 Cal.App.4th 754, 762-763.)

Here, the jurisdictional finding as to Mother, which is not challenged on appeal, constitutes a sufficient and independent basis for the juvenile court’s exercise of dependency jurisdiction over T.S. without regard to any finding related to Father. Father nonetheless asserts that this court should address the merits of the jurisdictional finding as to him because such finding “serve[d] as a basis for the disposition orders and may have other adverse consequences for him in this or future proceedings.” However,

the juvenile court placed T.S. with Father at the disposition hearing. While Father speculates that the challenged finding could still result in T.S.'s removal from his care in the future, any such removal order would have to be based on current conditions. In particular, the juvenile court would have to sustain a supplemental petition filed by the DCFS (§ 387), and then find, by clear and convincing evidence, that there was a substantial danger to T.S. in Father's care and that there were no reasonable means to protect the child other than removal (§ 361, subd. (c)(1)). (See *In re A.O.* (2010) 185 Cal.App.4th 103, 110.)

Accordingly, even if we were to conclude that there was insufficient evidence to support a finding that Father posed a current risk of harm to T.S., we would not reverse the juvenile court's orders asserting jurisdiction over T.S. or placing the child in Father's care. Nor could we grant any other relief to Father that would have a practical, tangible impact on his position in these dependency proceedings. (See *In re Briana V.*, *supra*, 236 Cal.App.4th at pp. 310-311; *In re I.A.*, *supra*, 201 Cal.App.4th at pp. 1492-1494.) Because the jurisdictional finding based on Mother's alcohol abuse provides a valid uncontested basis for dependency jurisdiction over T.S., we decline to consider whether the jurisdictional finding based on Father's failure to protect T.S. from such abuse was supported by substantial evidence.

DISPOSITION

The appeal is dismissed.

ZELON, J.

We concur:

PERLUSS, P. J.

SEGAL, J.